

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Office of Legislative Counsel Attn: <input type="text"/>		
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<input type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY	<input type="checkbox"/>	PREPARE REPLY
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<input type="checkbox"/>	CONCURRENCE	<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	SIGNATURE

Remarks:

Bob:

OLC #76-2525
I think the proposed memorandum on s:3664 is OK. I am not sure of the first full paragraph on page 3, that is, it appears to discuss a situation under existing law as compared to a "legislative effort" in the first line of that paragraph.

I have not checked the ~~Sec~~ Act and regulations. In line with our conversations, please ask Walt to address that point.

The last sentence of the paragraph at the middle of page 4 seems to be somewhat garbled.

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
Associate General Counsel	10Sep76

September 8, 1976

CONGRESSIONAL RECORD — HOUSE

society as well. It is beginning to move to reverse this trend.

In my judgment, many of the problems confronting our cities have taken root as a result of the breakdown of our neighborhoods—the basic building blocks of urban society. Who among us cannot recall the neighborhoods in which we grew up? We did not grow up in Los Angeles, or in St. Louis, or in Boston. We grew up in one of the many neighborhoods that make up these towns and hundreds just like them across our country. Perhaps these neighborhoods consisted of no more than a few square blocks, but the impact they had on our lives cannot be measured. They provided the environment in which our characters were developed, in which our dreams and ambitions were nurtured, and in which lasting friendships were made. This, not the city, was our "home."

In recent years, however, we have seen many neighborhoods lose the sense of identity that distinguished and sustained them. We have seen neighborhoods in which only fear was nurtured and in which people are suspicious of their neighbors. We have witnessed an exodus from our cities to the suburbs nearly as great as the migration from rural areas to the cities of a few generations ago. The resulting social and economic impacts are only too apparent.

The Federal Government has a responsibility to join with State and local governments to reverse the decline of our cities. Indeed, many of its policies and programs may have unwittingly contributed to their decline.

In response to this, I am introducing legislation calling for the establishment of a National Commission on Neighborhoods to investigate the factors contributing to their decline and to make recommendations for reversing this trend. This legislation differs from similar bills in two important respects: First, the life of the Commission is set at 16 months rather than 2 years and, second, the Commission's work is to be divided between a preliminary 8-month study of factors contributing to the decline of our neighborhoods and a concluding 8-month period of analysis of the results of this study leading to concrete, substantive recommendations to Congress.

I believe these changes are important for two reasons. First, there is already a considerable amount of material available from various, responsible sources concerning the problems of our communities. I believe the Commission should utilize this existing work to the greatest extent possible in order to avoid duplication. The 2-year study envisioned in related bills precludes the use of the commission's work during the 95th Congress, when important decisions will be made concerning the future of programs begun under the Housing and Community Development Act of 1974. To proceed with congressional action in these areas without the benefits of the Commission's work not only robs us of valuable input, it may even contradict their findings.

Second, to present Congress with just another study containing standard recommendations is simply not enough. For

Congress to act wisely it needs facts on a variety of options. My bill will provide us with those facts.

It is my hope that Congress will act upon this legislation before adjournment. The Senate Banking and Urban Affairs Committee has already reported out a version of this bill, and the Housing and Community Development Subcommittee of the House Banking, Currency and Housing Committee has scheduled hearings on this subject. I am extremely pleased by the growing support for this legislation and I look forward to quick passage.

FOREIGN PAYMENTS DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, today I am introducing a bill dealing with the problem of bribery of foreign officials by U.S.-based corporations operating abroad.

During the past year, largely through congressional hearings and information obtained by the Securities and Exchange Commission, we have become acutely aware of the dimensions of the foreign bribery problem and its deleterious effects on U.S. foreign policy, on the business climate abroad for U.S. corporations, and on our own moral expectations.

In the Lockheed scandal the SEC charged that since 1970, at least \$25 million in payments not reflected on the company's books and records were made to assist the company in obtaining and retaining contracts with foreign governments. The foreign policy implications for the United States are staggering and, in some cases, perhaps irreversible. Payments by Lockheed, alone, may well have advanced the Communist cause in Italy. In Japan, a mainstay of our foreign policy in the Far East, the Government is reeling as a consequence of such payments. And most recently, the monarchy in the Netherlands has been rocked by the Lockheed scandal. The revelations concerning Lockheed have been the most conspicuous, but as more and more corporations come forward, we recognize that such foreign payments are not isolated transactions.

All of this lends substantial credence to the suspicions by extreme Nationalists and Marxists that U.S. businesses operating in their country have a corrupting influence on their political systems.

Contrary to what some of the opponents of any remedial legislation would have us believe, bribery is not just a way of doing business abroad. No country in the world publicly supports bribery of public officials, and under the laws of most countries such payments are illegal. Many U.S. corporations have never engaged in such practices, and most welcome such legislation as I am proposing today, because it would make it easier to resist pressures from foreign officials. Finally, most foreign bribes revealed thus far have involved American companies competing with American companies for

the same business. This is certainly true in the aerospace and defense industries, where many of the bribes occurred.

I would emphasize that this bill is not concerned with so-called "grease payments," such as may be necessary to some petty clerk to speed documents through a bureaucracy.

The bill is divided into three sections, which are summarized as follows:

Section 1 requires reporting companies to create and to maintain accurate books and records. Secondly, it requires internal accounting controls sufficient to assure that transactions will be executed in accordance with management's instructions, that transactions will be accurately recorded, that access to corporate assets is carefully controlled, and that the representations on company books will be compared at reasonable intervals with actual assets, and any discrepancies resolved. This section also makes it a crime for a reporting company to falsify books, records, accounts, or documents, or to deceive an accountant in connection with an examination or audit.

Section 2 applies to corporations subject to the jurisdiction of the SEC by virtue of the reporting requirements of the Securities Exchange Act of 1934. It applies the existing criminal penalties of the securities laws (up to two years imprisonment and a fine of up to \$10,000) for payments, promises of payment, or authorization of payment of anything of value to any foreign official, political party, candidate for office, or intermediary, where there is a corrupt purpose. The corrupt purpose must be to induce the recipient to use his influence to direct business to any person, to influence legislation or regulations, or to fail to perform an official function in order to influence business decisions, legislation, or regulations, of a government.

Section 3 applies the identical prohibitions and penalties provided by Section 2 to any domestic business concern other than one subject to the jurisdiction of the SEC pursuant to Section 2. Violations of the criminal prohibition under Section 3 by persons not subject to SEC jurisdiction would be investigated and prosecuted by the Justice Department. Violations under Section 2 would normally be investigated initially by the SEC, but referred for criminal prosecution to the Justice Department.

Mr. Speaker, I include the entire text of the legislation at this point in the RECORD.

H.R. 15481

A bill to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13(b) of the Securities Exchange Act (15 U.S.C. 78m(b)), is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

"(A) make and keep books, records, and accounts, which accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

"(B) devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that—

"(1) transactions are executed in accord-

ance with management's general or specific authorization;

"(ii) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (2) to maintain accountability for assets;

"(iii) access to assets is permitted only in accordance with management's authorization; and

"(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

"(3) It shall be unlawful for any person, directly or indirectly, to falsify, or cause to be falsified, any book, record, account, or document, made or required to be made for any accounting purpose, of any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title.

"(4) It shall be unlawful for any person, directly or indirectly—

"(A) to make, or cause to be made, a materially false or misleading statement, or

"(B) to omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading to an accountant in connection with any examination or audit of an issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title, or in connection with any examination or audit of an issuer with respect to an offering registered or to be registered under the Securities Act of 1933."

SEC. 2: The Securities Exchange Act of 1934 is amended by inserting after section 30 the following new section:

"PAYMENTS TO OFFICIALS

"SEC. 30A. It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports pursuant to section 15(d) of this title to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give, or authorize the giving of, anything of value to—

"(1) any person who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

"(A) to use his influence with a foreign government or instrumentality, or

"(B) to fail to perform his official functions, to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality;

"(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

"(A) to use its or his influence with a foreign government or instrumentality thereof, or

"(B) to fail to perform its or his official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

"(3) any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office,

for the purpose of inducing that individual, official, or party—

"(A) to use his or its influence with a foreign government or instrumentality, or

"(B) to fail to perform his or its official functions,

to assist such issuer in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality."

PAYMENTS TO OFFICIALS

SEC. 3. (a) It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, to make use of the mails or of any means or instrumentality of interstate commerce corruptly to offer, pay, or promise to pay, or authorize the payment of, any money, or to offer, give, or promise to give or authorize the giving of, anything of value to—

(1) any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing that individual—

(A) to use his influence with a foreign government or instrumentality, or

(B) to fail to perform his official functions, to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulation of that government or instrumentality.

(2) any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing that party, official, or candidate—

(A) to use its or his influence with a foreign government or instrumentality thereof, or

(B) to fail to perform its or his official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality; or

(3) any individual, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly to any individual who is an official of a foreign government or instrumentality thereof, or to any foreign political party or official thereof or any candidate for foreign political office, for the purpose of inducing that individual, official or party—

(A) to use his or its influence with a foreign government or instrumentality, or

(B) to fail to perform his or its official functions,

to assist such concern in obtaining or retaining business for or with, or directing business to, any person or influencing legislation or regulations of that government or instrumentality.

(b) Any person who willfully violates this section shall upon conviction be fined not more than \$10,000, or imprisoned not more than two years, or both.

(c) As used in this section—

(1) the term "domestic concern" means an individual who is a citizen or national of the United States, or any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States, which has as principal place of business in the United States, or which is organized under the laws of a State of the United States or any territory, possession, or commonwealth of the United States; and

(2) the term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship out-

side thereof, and such term includes the interstate use of a telephone or other interstate means of communication or any other interstate instrumentality.

THE CATHOLIC CHARITIES OF THE ARCHDIOCESE OF NEW YORK IS RIGHT: HOUSE-PASSED REVENUE SHARING BILL IS FLAWED AND MUST BE CORRECTED

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, tomorrow the Senate will take up for consideration the Fiscal Assistance Amendments of 1976. The House passed that bill, H.R. 13367, on June 10. In early June I was alerted to a problem in the bill by the Catholic Charities of the Archdiocese of New York. It was their concern that the result of the religion provision of the Jordan antidiscrimination amendment to the bill, reported out of committee and included in the legislation on the House floor, would cut church-related schools, homes for the aging, and child-care institutions from revenue sharing funds or any other public support presently available. BARBARA JORDAN and I had a colloquy on the floor in which I raised this issue. I am including that colloquy at the end of my statement.

At that time I believed that Congresswoman JORDAN's explanation disposed of the conflict. However, the Catholic Charities insisted that the House religious discrimination provision would go further than existing civil rights law by prohibiting activities of religious organizations which are currently permissible. I believed at the time that the concern of the religious charities was unfounded. However, I did decide to investigate the matter further. The Congressional Research Service provided me with a memorandum which they prepared while the Senate Finance Committee was considering the legislation. In that memorandum, it was stated that the Jordan amendment was, in fact, ambiguous on the issue and could be interpreted to have the effect the various religious organizations thought it might. I then contacted the Department of Justice raising the problem and received a letter from J. Stanley Pottinger, a copy of which I am enclosing, which supports the memorandum of the Congressional Research Service in its statement that the Jordan amendment is, indeed, ambiguous, and "could be read as prohibiting discrimination in services by religious organizations which provide services such as running day care centers and providing school lunches, even though such discrimination in services is not prohibited by title VI of the Civil Rights Act of 1964."

It now seems clear that the Jordan amendment is ambiguous and that the Catholic Charities representatives were correct in their belief that the provision could be much more broadly construed than Representative JORDAN intended. The Catholic Charities representatives were correct and fortunately they persisted and I am pleased that I pursued the matter further.